

## **APPROVED MINUTES**

*(Approved June 4, 2001)*

### **MONTGOMERY COUNTY REDISTRICTING COMMISSION, 2001**

**MONDAY, MAY 14, 2001 AT 7:30 PM**

Council Office Building

Rockville, Maryland

#### **COMMISSIONERS PRESENT**

Shirley Small-Rougeau, Chair

Bill Sher

Jason Tai

Steve Berry

Jayne Plank

William Roberts

Harry Lerch

David Davidson

#### **STAFF**

Ed Lattner, Assistant County Attorney

Pamela Zorich, Planner, Park & Planning

Ralph Wilson, Council Staff

Robin Ford, Council Staff

#### **GUESTS**

Marie Garber, Chair, 1991 Redist. Comm.

Peggy Erickson, Dacek Office

Sherry Kinikin, Praisner Office

Anita Powell, Lincoln Park Historical Fndt.

George Sauer, MC Republican Cent. Comm.

Dale Tibbitts, Citizen PAC

---

#### **OPENING REMARKS**

Chair Rougeau called the meeting to order at 7:35 PM, and noted that Commissioner Morton could not attend this meeting. She suggested that prior to proceeding, the Commission discuss the agenda, and determine whether or not this meeting was an appropriate time to present draft redistricting plans. Some Commissioners expressed the belief that no plans can be produced before receiving input from the public. Others indicated that public feedback would be minimal until the are plans to pique the interest of the public.

Staff noted that the letter requested by the Commission informing the municipalities and special taxing districts of the Redistricting process and asking them to submit their boundaries was mailed. (This letter, and a list of recipients, was included in the materials distributed at the meeting.) The letter inviting the County Executive and Council and the community organizations will be mailed before the next meeting. Other methods of public outreach, including the Commission's press release and maintenance of the Commission website are ongoing efforts. The Commission decided that the agenda would remain the same, and if, at the time for presentation of draft plans, anyone wanted to make a motion to postpone this agenda item, the option is available.

#### **APPROVAL OF MINUTES**

Staff noted that Ms. Zorich and Mr. Wilson submitted revisions to the April 16<sup>th</sup> minutes, which were incorporated into the current draft. The Commission unanimously voted to approve the April 16, 2001 meeting minutes as submitted.

## PRESENTATION BY MARIE GARBER

Mrs. Rougeau introduced Marie Garber, Chair of the 1991 Montgomery County Redistricting Commission. Mrs. Garber provided an overview of the work procedures of the previous Commission. Her discussion included the following information:

### *Public Outreach*

- The 1991 Commission received a high volume of public attention at the group's onset due to its composition. Much of the public objected that there was no up-county representation on the panel.
- The Commission decided early to make its process and deliberations as open as possible, by holding open meetings to comply with law, and by allowing public comment at each meeting and in essence, making each meeting a public hearing. Other outreach methods were maintaining a comprehensive mailing list of all whom expressed interest in the Redistricting process; ensuring that Commissioners appeared before any community audience that requested a briefing; reporting back to the full group; and having a televised public hearing.
- Mrs. Garber noted that the chief concern expressed by residents was that "communities" (municipalities, civic organizations, and in some cases housing developments, precincts and zip codes) not be split into separated districts.
- She also stated that even though initial public involvement was hostile to the 1991 Redistricting Commission, that high level of public involvement was very helpful. It enabled the Commission to hear all of the varied concerns of County residents, and allowed residents to see that they were not "locked out" of this process. Mrs. Garber encouraged the 2001 Commission to, as quickly as possible, reach out to the County and solicit ideas and concerns regarding the Redistricting process.

### *Work Process*

- Although they were not legally required to, the 1991 Redistricting Commission decided to use whole precincts as the building blocks for the districts.
- The Commission designed an "issue definition and criteria" to help guide and explain the goals of their redistricting efforts.
- The Commission decided to adhere to a maximum variance of 3%, well below the legally required 10%. The variance is determined by the sum of the number of percentage points that the largest district is above the target percent and the number of percentage points that the smallest district is below the target percent.

### *Presenting Plans*

- Each Commissioner submitted as many plans as they desired for consideration by the Commission. The plans were displayed at each meeting for public comment and were made available for those who requested them.
- By the September public hearing, one plan was voted on as the one to be presented as the draft plan of the Commission, but two other minority plans were also included for comment at the hearing.
- Final decisions on the plan and report text were made at an October meeting.

### *Questions and Additional Information*

- Mrs. Garber encouraged the 2001 Commission to contact the Board of Election Supervisors to determine which, if any, precincts will be split in the near future. It was

- clarified that even in the event that some precincts are split after the Council acts on the Redistricting Plan, the split precincts would not alter the Council district lines.
- Mrs. Rougeau inquired about the 1991 Commission’s request that the Board of Elections change the precinct lines for one precinct. Mrs. Garber stated that the Darnestown community requested the action.
  - Staff asked about the format of the public hearing. Mrs. Garber stated that the hearing was held in the COB 3<sup>rd</sup> Floor conference room, and that 46 speakers participated.
  - Mrs. Garber, in response to questions, stated that along with the listing of precincts within municipalities, maps submitted by the municipalities were also helpful in determining community boundaries. Staff pointed out that included in the Commissioners’ packets is the *Chevy Chase Redbook*, a document prepared by 11 County municipalities that includes detailed boundary information.

Staff agreed to contact the Board of Elections to receive a list of any planned precinct splits. Mr. Lerch suggested that this information be provided to all Commissioners and possibly included into the GIS computer program so Commissioners can be aware of that information as the conceive plans.

## **LEGAL ISSUES**

Mr. Lattner discussed recent Supreme Court action regarding *Shaw 4* in North Carolina. The Court decided that race was not a predominate factor in the formatting of the district in question, but Mr. Lattner pointed out that this decision did not change any law or alter any of the information presented to the Commission in his earlier legal memo.

Regarding submittal of plans by outside parties, Mr. Lattner indicated that there is no legal process that the Commission is bound by. Any group or individual may submit plans to the Commission and the group can decide if the plan should be considered and to what extent.

Mrs. Rougeau requested clarification on the Open Meetings law and the quorum number of this Commission. Mr. Lattner responded that a quorum was a majority so in the case of the 9 member Redistricting Commission, 5 are the quorum. Under the Open Meetings Law, if 5 members meet, the meeting must be open, notice must be given and minutes must be taken. The law does not apply to “chance meetings” of 5 members of the Commission, and applies to all meetings for the purpose of conducting the business of the Commission. He also indicated that the law applies even in cases of telephone or other technologically enhanced meetings. Regarding the specific example of if a single Commissioner is invited to speak and 4 or more other Commissioners attend that meeting, Mr. Lattner indicated that he did not believe that this scenario would violate the Open Meetings Law. However, he will review the act and follow up with Commissioners.

## **PRESENTATION OF REDISTRICTING PLANS**

Mrs. Rougeau opened the floor for a motion to postpone presentation of any draft redistricting plans until a later meeting. Ms. Zorich indicated that she had received the files for one plan, but had not yet discussed the finished product with the Commissioner involved. She added that the original intention was to receive plans from Commissioners at least a week prior to Commission meetings in order to properly format and reproduce the maps and return them to the Commissioner for final review and presentation at the meeting. Mr. Roberts indicated that the plan sent to Ms. Zorich belonged to him, but that he was not able to review the final product and therefore the plan did not need to be discussed at this meeting. Ms. Zorich stated that Commissioners may also just copy page-size maps on their own for presentation at upcoming meetings, but indicated that along with preparing maps, Park and Planning Staff will also provide supporting handouts and tables to accompany draft plans.

Mr. Davidson indicated that some Commissioners might feel hesitant to put forth a plan prior to significant community input. He noted that it may be the case that the overall feelings regarding Council districts have not changed that dramatically in the last ten years, but pointed to additional questions that still need to be considered for any proposed drafts:

- Should the Commission consider adult population when the legal standard is total population?
- How much variation will the Commission accept? Should the Commission attempt to anticipate future growth or should it strive for districts that are as equal as possible. That decision will impact the size and location of precincts.
- Whether or not to place two incumbent Council members within the same district. (Mr. Davidson noted that it appears to be possible to draft a plan without doing that.)

Mr. Lattner indicated that the Charter requires the districts to be substantially equal, but noted that within the 10% legal variance, the Commission could rationally attempt to anticipate some growth. However, he cautioned that with regards to variance of population districts, less is more. Regarding adult or total population, Mr. Lattner stated that cases have always used total population and have upheld the concept of representational equality over the electoral equality.

Mrs. Plank suggested that, similar to the process used by the previous Commission, this group draft a list of criteria and priority issues for any redistricting plans. Mrs. Rougeau and Mr. Wilson agreed that establishing a philosophy or criteria that the Commission outlines and then follows would be a helpful exercise, both for the Commission and the public following the Commission's work. Mrs. Plank read her personal list of Redistricting criteria to the group. Her list included the following:

- Changes in boundary lines should comply with stated requirements.
- Compact and contiguous districts, if possible.
- Retain municipal and special taxing districts in the same district.
- Assure that recognized communities such as Leisure World or Asbury Village in the same district.
- Consider natural boundaries such as stream valleys and park lands for district dividers.
- Consider the beltway and other major roads and highways.
- Reallocate 2000 population increases by shifting existing precincts as designated by the Board of Elections.

Dale Tibbitts, Citizen PAC, noted that his organization has not yet created a plan for submittal to the Commission, but is considering several draft plans based on differing premises. They have created: 1) a minimal change plan with the current plan just modified to meet updated population numbers, 2) a plan to create more compact districts, 3) a plan to maximize minority influence, 4) and a plan not based on any previous one, but on the County's wedges and corridors and major transportation routes. Mr. Tibbitts indicated that if it would be helpful, he was willing to discuss these options with Commissioners.

Mr. Roberts noted that Mr. Tibbitts' comments raised a fundamental questions for the Commission's consideration; that is, whether the Commission should start with a "blank slate" and redraw lines without regard to existing district boundaries or, on the other hand, whether it should start with the existing district boundaries and move selected precincts between the existing districts in order to minimize, to the greatest extent possible, disruption of the existing districts. He suggested that the latter, a minimal change to existing boundaries might be most appropriate. With regard to the charter requirement of compactness, he noted that the charter does not require the "most compact" possible, and

that the existing district boundaries have already been the subject of a judicial determination that they meet the compactness requirement. He recommended to the Commission that the minimal change approach would be appropriate, thereby leaving communities within the County, to the greatest extent possible, with their existing representation, which those communities have become accustomed to over the past ten years since the last redistricting.

Regarding the idea of anticipating County growth, Mr. Davidson suggested that it may be appropriate to consider future population estimates as projected by Park and Planning. Mr. Roberts stated that, while the Commission is not legally obligated to consider population growth over the next decade in the various districts, since any plan is not going to result in exact equality in population between the various districts, it would make sense to attempt to place any under-variance from the ideal number in those districts which are anticipated to have a higher population growth in the future, such as District 2. He further noted that, while this should not be a controlling factor, assuming an otherwise acceptable plan be prepared, it would make sense to place the under count in districts expected to experience significant growth in the next 10 years, and use the over count to augment the districts that may decrease or remain relatively flat in term so f population over the next 10 years.

Mr. Tai stated that the purpose of re-drawing the lines every 10 years is to account for population shifts and reflect them in Redistricting Plans. He indicated that it would be problematic to attempt to use future growth as a primary factor in the process. He recommended that the Commission use the mandate outlined in the Charter, and advocated following the spirit of the Voting Rights Act of 1965. He noted that, except for the review provided by Mr. Lattner, this issue has not really been considered by the Commission. He stated that given the County's approximately 40% minority population and that Councilmember Leggett has issued a call for more minority representation on the Council, the Redistricting Commission should be sure to make this a factor when evaluating plans. Mr. Sher agreed with Mr. Tai, but was not clear on how the current County situation should be enhanced by the Commission focusing on the Voting Rights Act, or how the Commission could explore this issue further. Mr. Tai expressed that he does not have any immediate solutions or specific instances to relay to the group, but was merely putting this issue on the table because, up to this point, it had not been a subject of Commission discussion.

Mr. Lattner indicated that both Districts 4 and 5 are total minority/majority districts. (This is calculated by grouping all minorities together, not counting individual minority groups.) Mrs. Plank stated that the Commission should determine the appropriate way to count minorities. Mr. Lattner indicated that in most cases, minority/majority is based on a single group, and that in those instances, there are still issues of whether or not the group acts cohesively. Mrs. Rougeau stated that minority groups are made up of varying nationalities, classes and other distinguishing characteristics that produce differing perspectives and concerns. She further stated that not all people of any group, minority or majority, will have similar concerns based on race or ethnicity. Mrs. Rougeau added that it is the Commission's responsibility to keep this issue present in discussions and planning, and listen to all the County's constituencies regarding Redistricting. Mr. Tibbitts added that there are statistical methods to ascertain minority voting data and patterns to determine if minority populations are routinely unsuccessful at electing their desired representative. He noted that the Montgomery County population may not be large enough and concentrated enough to significantly influence this process. Mrs. Rougeau noted that many minority groups within Montgomery County recognize that the minority vote alone is not substantial enough to elect a representative.

Mrs. Rougeau asked Mr. Davidson to develop a proposal to advise the Commission on how to incorporate future population growth data into its planning process. Mr. Davidson indicated that he would give the idea some thought and follow-up with the Commission. Ms. Zorich also indicated that

the Planning Board does produce population projections out to 2010 and/or 2020 by Planning Area, and that she will provide that information to the Commission.

## **COMMISSION WORK PROGRAM AND SCHEDULE**

In her presentation, Mrs. Garber stated that it was beneficial that the 1991 Commission held meetings in various areas of the County. Mrs. Rougeau noted that at the last Commission meeting, the group voted not to hold meetings around the County, but to hold the next two meetings in Rockville. She stated that given the presentation by Mrs. Garber, the Commission may want to consider altering the location for the next two meetings. Mr. Berry suggested that the Commission eventually meet in the Olney area when plans are available for community consideration. Mr. Tai reiterated his feelings that the Commission should attempt to solicit public comment prior to developing any draft plans in order to allow the Commission to consider any issue raised when drafting any plans for public review. Whether or not people participate in this process, allowing the opportunity would provide transparency and allow for more public participation in the Redistricting process. Mrs. Plank indicated that this Commission has already agreed to individually go out and speak to any interested groups and report back any issues or concerns to the full group. Staff also noted that the Commission has instructed Staff to send letters inviting comment from specific County organizations on the Redistricting process. Several Commissioners noted that when the Commission presents draft plans, public comment will increase.

The September meeting is projected as the public hearing and therefore the Commission has three months to put together plans for consideration. Mr. Davidson noted that it would be better to schedule the community Commission meetings at the July and August meetings, as the June meeting was identified for presentation of draft plans. In addition to Olney in District 2, Districts 1 and 4 were also suggested as sites for future community Redistricting meetings. Mrs. Rougeau asked Mr. Berry to assist Staff in determining the appropriate location for the Olney meeting. The Commission will consider coordinating Redistricting Commission meeting with meetings of the Up-County Advisory Committees, which meets at community Regional Service Centers.

Staff indicated that to complete all the work necessary for the public hearing, the group might have to schedule additional meetings. Mr. Lattner pointed out that the Commission is not legally obligated to conduct a public hearing. Mrs. Rougeau again encouraged all Commissioners to contact their Council members to determine any specific issues that should be brought before the Commission.

Mrs. Zorich indicated that several maps were created for the 1991 Commission and not all of those were eventually present for public consideration. She cautioned against allowing too much time to pass without having at least draft maps on the table that can then go through the process of Commission discussion and revision before presentation to the public. She encouraged Commissioners to attempt to have maps at the next meeting. Mrs. Rougeau pointed out that when the 1991 Commission had meetings in various communities, although at that point, several maps had been presented for Commission discussion, those maps were not always brought before the public at those remote meetings. Mrs. Rougeau further indicated that while Commissioners are not required to submit plans, any one that plans to submit draft plans should try to have them ready for the June meeting. Mr. Tibbitts suggested, and the Commission agreed, that all submitted drafts should include accompanying text explaining the basis or objective of the specific maps.

Mr. Lerch suggested that Staff alert the media about our meetings. Staff indicated that one press release was distributed to the media and is now on the Redistricting website. At some point, it may be appropriate to send press releases after each Commission meeting.

The Commission made the following changes to the meeting schedule:

- Locations and times for the July 9<sup>th</sup> and August 6<sup>th</sup> meeting are still to be determined.
- The Public Hearing is scheduled for Wednesday, September 12<sup>th</sup>, 7:00 PM in the COB 7<sup>th</sup> Floor Hearing Room.
- The October meeting will be held on Wednesday, October 3<sup>rd</sup>. (Time and location to be announced.)
- The remainder of the meeting schedule was not changed.

#### **ADDITIONAL BUSINESS**

The Commission agreed that Staff should post Commission meeting minutes on the Redistricting website after they have been approved. The Commission also indicated that, at the appropriate time, maps that will be presented at the public hearing should also be posted on the website. ([www.co.mo.md.us/council/](http://www.co.mo.md.us/council/))

#### **NEXT MEETING**

**The next meeting will be held on June 4th, in the COB 5<sup>th</sup> Floor Front Conference Room, at 7:30 PM.**

The meeting adjourned at 6:30 PM.

f:\wilson\redistricting commission\minutes\may 14th minutes.doc